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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**ORIGINAL
FILE**

In the Matter of

Amendment of the Commission's
Rules to Establish New Personal
Communications Services

)
)
) GEN Docket No. 90-314
) ET Docket No. 92-100
)

To: The Commission

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Comments of Century Cellunet, Inc.

NOV - 9 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Table of Contents

	<u>Page</u>
Summary.....	ii
Statement of Interest.....	1
Cellular Carriers Should Be Allowed To Hold PCS Licenses Within Their Cellular Service Areas.....	2
The Cellular Rules Should Be Liberalized To Allow Cellular Carriers To Make Better Use Of Their Existing Frequencies.....	7
Local Exchange Carriers Should Be Allowed To Obtain PCS Licenses.....	8
The Commission Should License Three Broadband PCS Carriers In Each Market With A 20 MHz Channel Allocation With A 5 MHz Reserve.....	9
PCS Markets Should Be Defined Using The 734 Metropolitan Statistical Areas And Rural Service Areas Previously Used For Cellular Licensing.....	10
Cellular Carriers And PCS Licensees Should Receive Like Regulatory Treatment.....	12
There Should Be No Limits On Holding Multiple Licenses...	13
PCS Licenses Should Be Awarded By Lottery.....	13

Summary

Century Cellunet, Inc. ("Century") hereby submits its comments in response to the Commission's Notice of Proposed Rule Making and Tentative Decision, FCC 92-333, released August 14, 1992. Century, through subsidiaries, is the operator of cellular systems in eight states.

Century submits that cellular carriers should be allowed to hold Personal Communications Service ("PCS") licenses within their cellular service areas. According cellular carriers PCS licensing eligibility will not produce anticompetitive conduct. Any eligibility restriction will severely impair the ability of cellular carriers to offer new services which complement their basic cellular service offerings.

In addition, the Commission should revise Section 22.930 of the Rules to state explicitly that cellular carriers may provide PCS-type services, such as wireless PBX, data transmission and telepoint services. The Commission should also remove the prior notification requirement.

Local exchange carriers ("LECs") should be allowed to obtain PCS licenses. This will enhance the availability of universal telephone service from the LECs at reduced costs.

The Commission should license three broadband PCS carriers in each market with a 20 MHz channel allocation and a 5 MHz reserve per licensee.

PCS markets should be defined using the same market definitions used for the initial licensing of cellular systems.

PCS licensees and cellular carriers should receive like regulatory treatment to maximize competition. If PCS is classified as a private land mobile radio service, then cellular carriers should be accorded the option of classifying all or part of their operations as private land mobile radio operations.

There should be no limits on the holding of multiple licenses. Current practices in the cellular industry should be followed in PCS.

PCS licenses should be awarded by lottery. Speculative application practices could be curtailed by requiring PCS licensees to construct and operate their systems for one year before being permitted to enter into an agreement to assign the license or transfer a controlling interest in the license.

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Comments of Century Cellunet, Inc.

Century Cellunet, Inc. ("Century"), by its attorneys and pursuant to Section 1.415 of the Rules, hereby submits its comments in response to the Commission's Notice of Proposed Rule Making and Tentative Decision, FCC 92-333, released August 14, 1992 ("NPRM") in the captioned proceeding.¹ In support hereof, the following is shown:

Statement of Interest

1. Century is a wholly-owned subsidiary of Century Telephone Enterprises, Inc., a publicly-traded corporation.² Century, through subsidiaries, is the operator of cellular systems in the states of Arkansas, Arizona, Louisiana,

¹Paragraph Nos. 46 - 47 of the NPRM seek comment on certain issues pertaining to current licensees in the 2 GHz band. On June 5, 1992, Century's parent corporation, Century Telephone Enterprises, Inc., filed comments in ET Docket No. 92-9. Those comments are incorporated herein by reference.

² The operating subsidiaries of Century Telephone Enterprises, Inc. are engaged primarily in the provision of landline message telephone service and cellular service. As of December 31, 1991, Century Telephone Enterprises, Inc. had total book value assets of \$764,539,000.

Michigan, Minnesota, New Mexico, Wisconsin, and Texas. As an experienced provider of cellular service, Century has an interest in any Commission proposal to establish a new radio service for the provision of mobile and portable communications services on either a common carrier or a private carrier basis.

**Cellular Carriers Should Be Allowed To Hold
PCS Licenses Within Their Cellular Service Areas**

2. In the NPRM, the Commission has proposed to allow cellular carriers to obtain Personal Communications Service ("PCS") licenses outside their cellular service areas, but has solicited comment on whether cellular carriers should also be allowed to obtain cellular licenses within their cellular service areas. NPRM, Para. 67. For the reasons stated below, Century submits that cellular carriers should also be allowed to obtain PCS licenses within their cellular service areas.

3. As an initial matter, Century applauds the Commission's efforts to develop rules for the commercial licensing and operation of new PCS systems. But the fear that licensing PCS systems to cellular carriers within their cellular service areas will produce anticompetitive conduct is speculative at best; and the Commission is on record in other proceedings in rejecting unsubstantiated fears of anticompetitive conduct in developing Rules for the licensing

of commercial radio systems. See, e.g., Cellular Communications Systems (Reconsideration Order), 89 FCC 2d 58, 69-74 (1982). Moreover, any such eligibility restriction will severely impair the ability of cellular carriers to offer new services which complement their basic cellular service offerings.

4. As the Commission has expressly noted, the cellular industry has been in the vanguard in bringing new and competitive mobile radio technology and services to the public. In licensing mobile radio services, the "Commission has squarely placed its faith in competitive markets and service flexibility as the best path to provide greater choice and low prices for consumers," a faith "which has been amply justified by the nationwide availability of cellular service;" by the "competition among cellular providers for customers;" by the "diverse array of service and equipment options;" and by the "aggressive behavior of cellular providers in implementing new technologies such as digital transmission and providing a variety of new services using the cellular spectrum." NPRM, Para. 2. While it is impossible to predict how the market for commercial PCS will ultimately develop, it appears that, to a large extent, PCS offerings will complement existing cellular service offerings. To this end, the rules governing PCS license eligibility should not exclude any class of carrier from applying for or obtaining PCS licenses.

Cellular carriers should be allowed to participate as PCS licensees as fully and to the same extent as any other class of carriers.

5. Allowing cellular carriers to obtain PCS licenses in their cellular service areas will not produce anticompetitive conduct and, indeed, will be essential to allowing cellular carriers to provide PCS in an efficient and cost effective manner. At this juncture, it should be noted that other forms of currently licensed land mobile radio technology compete with cellular systems; yet the Commission has never adopted eligibility restrictions to prevent cellular carriers from being licensed in the "competing" radio services. For example, Specialized Mobile Radio ("SMR") systems are a case in point. SMR systems provide two-way voice services which can compete with cellular systems while at the same time offering the ability to provide such services as fleet dispatch which cellular carriers may not provide. No Commission Rule or policy precludes a cellular carrier from also being the licensee of an SMR system; and, indeed, Century has been advised that several Frequency Block A cellular carriers also have SMR licenses within their cellular service areas. These licenses permit the cellular carriers to provide an expanded array of service offerings to the public without an adverse effect on competition.

6. PCS systems will employ a digital radio transmission format. In contrast, cellular systems currently employ analog transmission, which requires more channels than a digital transmission format to accommodate the same number of calls. While many cellular systems in the largest metropolitan area markets are converting from analog to digital transmission to achieve greater system capacity, all cellular systems will be required to retain analog transmission equipment for the foreseeable future. This is so because all existing subscriber equipment employs analog transmission, and a large market exists, and will continue to exist, for the sale of new and used analog subscriber equipment. Current analog units are less expensive and considerably more compact than digital subscriber units. In view of their low price and compact size, analog units are and will continue to be very popular for both local and roamer service, particularly among both business users in downtown areas and subscribers desiring service for personal use. These customers simply will not give up their analog equipment for the bulkier and more expensive digital equipment; and, as a result, cellular carriers will be required to retain analog transmission facilities to accommodate their service needs. The need to retain analog transmission facilities will thus require large amounts of 800 MHz band spectrum for the provision of basic cellular service.

7. Given the continued need to accommodate analog subscriber equipment for the provision of cellular service, cellular carriers have insufficient spectrum under Section 22.902(b) of the Rules to offer full-scale PCS only as an auxiliary or enhanced service under Section 22.930 of the Rules. The cellular carriers require the right to obtain PCS licenses if they are to offer PCS (which will complement their cellular service offerings) using the necessary digital transmission format on a competitive and cost effective basis.

8. In addition, the 2 GHz PCS channels will be better suited to the provision of PCS than the 800 MHz band channels licensed to cellular systems. A large segment of the PCS market will be indoor applications such as wireless private branch exchanges ("PBXs") and wireless local area networks ("LANs") located inside office buildings. Such indoor applications will require the ability to exercise great control over the range of the radio transmission path to obtain optimal spectrum efficiency and channel reuse. Due to propagation characteristics, the 2 GHz band channels have a shorter range than 800 MHz band channels at any given power level. As a result, 2 GHz PCS systems are better suited to the indoor operating environment of a wireless PBX system or LAN.

9. Furthermore, the Commission has proposed the use of

market boundaries for the licensing of PCS that are considerably larger than the definitions used for the initial licensing of cellular systems. Since the proposed PCS boundaries would produce geographically extensive markets, many cellular carriers could be precluded from filing for PCS licenses as a result of their ownership interests in cellular systems, cellular systems which will serve only a small portion of the licensed PCS service area. The coverage area of the cellular systems will represent only a small percentage of the licensed PCS service areas, and, as a result, the cellular carriers would be precluded from obtaining PCS licenses in areas where they do not in fact provide cellular service.

The Cellular Rules Should Be Liberalized To Allow Cellular Carriers To Make Better Use Of Their Existing Frequencies

10. The Commission has solicited comment on whether the cellular service Rules should be further liberalized to allow cellular carriers to make better use of their existing frequencies. NPRM, Para. 69. The Commission has proposed to revise Section 22.930 of the Rules to state explicitly that cellular carriers may provide PCS-type services, such as wireless PBX, data transmission and telepoint services. NPRM, Para. 70. The Commission has also proposed to remove the prior notification requirement to allow cellular carriers to respond more effectively to competition from PCS providers.

11. Century supports the proposed Rule changes. They will facilitate more efficient use of the radio spectrum, and will enable cellular carriers to more rapidly tailor their service offerings in response to public demand.

**Local Exchange Carriers Should Be Allowed
To Obtain PCS Licenses**

12. The Commission has solicited comment on whether local exchange carriers ("LECs") should be allowed to hold PCS licenses, except where barred by their cellular holdings, if such a bar is adopted. NPRM, Para.76. In Century's view, there should be no prohibition on the LECs obtaining PCS licenses. The LECs could use the PCS licenses for the provision of a variety of services, including wireless local loop service. The ability to configure wireless local loops would enable the LECs to enhance the availability of universal telephone service at a cost to subscribers that is lower than current landline telephone service. The PCS Rules adopted by the Commission should contain a 20 MHz allocation with a 5 MHz reserve especially for this purpose that the LECs could apply for on an as-needed basis, similar to Basic Exchange Telecommunications Radio Service.

**The Commission Should License Three Broadband
PCS Carriers In Each Market With A 20 MHz Channel
Allocation With A 5 MHz Reserve**

13. In the NPRM, the Commission has proposed to license three 2 GHz band PCS systems in each market area, with each system allocated 30 MHz of spectrum. NPRM, Para. 38. Century supports the Commission's proposal to license three broadband PCS systems per market, but respectfully submits that each such system should be allocated only 20 MHz of spectrum initially with a 5 MHz reserve. Each licensee could request the release of its respective 5 MHz of reserve spectrum on an as-needed basis. If the reserve ultimately proves to be unneeded by any of the PCS licensees in a given market, it can then be re-allocated by the Commission for other uses.

14. In Century's opinion, an allocation of 30 MHz per system is excessive and will not promote the efficient utilization of the radio spectrum. The extent of demand for PCS cannot be predicted with reasonable certainty at this time. Sufficient demand may not materialize to justify a spectrum allocation of 30 MHz per system. An initial allocation of 20 MHz per system should be more than adequate to accommodate any demand that may develop initially, especially since PCS systems will utilize a spectrally efficient digital transmission format.

**PCS Markets Should Be Defined Using The 734
Metropolitan Statistical Areas And Rural Service Areas
Previously Used For Cellular Licensing**

15. In the NPRM, the Commission has tentatively concluded not to define PCS markets under the Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") boundary definitions previously adopted for the initial licensing of cellular systems. NPRM, Paras. 56-57. Instead, the Commission has presented for comment four competing bases for market definition, any of which would produce more geographically extensive markets than employed to license cellular systems. NPRM, Para. 60.

16. In Century's opinion, the market definitions used in cellular should also be used for PCS. The MSA and RSA boundaries were defined following extensive rulemaking proceedings and facilitated the licensing of cellular systems on an orderly basis. These market definitions are well known in the communications industry and to the investment community. There is simply no valid reason to abandon these workable and proven market definitions in favor of an untried alternative. Use of these market definitions would expedite the licensing of the PCS systems by eliminating any need to "fine tune" market boundaries, a procedure that would logically be required under the options proposed in the NPRM.

17. In support of its proposed market definitions, the Commission has cited the consolidation within the cellular industry and the development of regional cellular systems to suggest that the MSA/RSA definitions produce market areas that are too small. NPRM, Paras. 56-57. However, the fact that cellular operators have consolidated ownership and developed regional systems is no basis for abandoning familiar and time proven market definitions in favor of untried alternatives. As a practical matter, any form of market definition adopted by the Commission will serve only to facilitate the orderly, initial licensing of PCS systems by minimizing the number of mutually exclusive conflicts. Once licenses have been awarded, markets will be consolidated or partitioned to provide properly-sized service areas regardless of the method of market definition adopted by the Commission.

18. The smaller MSA/RSA market definitions are better suited to developing PCS as a competitive service through licensing a larger number of licensees. PCS systems will operate at low effective radiated power levels and, as a result, a large number of PCS cells will be needed to cover a given area when compared with the number of cells required by a cellular system to cover a comparable area. Smaller market definitions will thus promote the rapid build-out of PCS systems by reducing the capital outlay required by a given PCS licensee to provide service to the entirety of its market

of license; and, as a result, will reduce the incidence of unserved areas.

19. The fact that PCS systems and cellular systems may compete with each other to some degree provides an additional reason in support of using the MSA/RSA market definition standard. As the Commission is aware, cellular carriers compete on a variety of bases, one of which is breadth of system coverage. The adoption of a market definition standard for PCS which produces markets larger than the MSAs and RSAs could impair the ability of cellular systems to compete with PCS systems in the provision of PCS-type services.³

**Cellular Carriers And PCS Licensees
Should Receive Like Regulatory Treatment**

20. The Commission has solicited comment on whether PCS should be classified as a common carrier or private land mobile radio service. NPRM, Para. 95.

21. Century takes no position on this issue except to state that PCS and cellular carriers should receive like regulatory treatment. Thus, for example, if the Commission classifies PCS as a private land mobile radio service, then cellular carriers should be accorded the option of classifying

³ See the discussion at Paragraph No. 9, above.

all or part of their operations as private land mobile radio services.⁴ In this way, the Commission will insure that competition, not regulatory handicaps, will guide the wireless industry in providing services that meet public demand.

There Should Be No Limits On Holding Multiple Licenses

22. Century endorses the third option advanced by the Commission regarding the holding of multiple licenses. That option is to follow the current practice in cellular and to not set any specific standard, instead deciding license merger questions on a case-by-case basis. NPRM, Para. 81. In Century's view, this third option best promotes the public interest. It will allow PCS licensees maximum flexibility in developing efficient and cost effective regional PCS systems. The other two options discussed in the NPRM would seriously undermine this important objective.

PCS Licenses Should Be Awarded By Lottery

23. Century supports the use of lotteries to award PCS licenses because it will expedite the licensing process and allow a greater number of qualified applicants to compete for licenses. NPRM, Paras. 82-92. The Commission has the

⁴ The issue of whether cellular carriers may elect to provide services on a private carrier basis is presently pending before the Commission in RM-7823.

statutory authority to award licenses through random selection procedures. No legislation is in place that would allow the Commission to use competitive bidding. Filing fees should be reasonably related to the costs associated with the processing of the applications and should take into account the fact that only the winning application in a lottery receives extensive processing. In no event should the filing fee exceed \$230.00 per market. To encourage serious applicants, applications should contain detailed engineering showings. Speculative application practices could be curtailed by requiring PCS licensees to construct and operate the systems for one year before being permitted to enter into an agreement to assign the license or transfer a controlling interest in the license. In connection with settlements, dismissing applicants and those withdrawing (or forbearing from filing) petitions to deny should be limited to recovering their reasonable and legitimate expenses.

Respectfully submitted,

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